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U.S. Citizenship  
and Immigration  
Services

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MAR 26 2004

FILE:

Office: NEW DELHI, INDIA Date:

IN RE:

Applicant:

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(h) of the  
Immigration and Nationality Act, 8 U.S.C. § 1182(h).

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Officer in Charge, New Delhi, India and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a native and citizen of India. He was found to be inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude, section 212(a)(2)(C) of the Act, 8 U.S.C. § 1182(a)(2)(C) for having been involved in the trafficking of a controlled substance and section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii) based on his removal of March 18, 1997. The applicant is the beneficiary of an approved petition for alien relative filed by his U.S. citizen mother. The applicant seeks a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h) in order to travel to the United States and reside with his U.S. citizen parents.

The director determined that the applicant is not eligible for any relief or benefit from this application and denied the application accordingly. *See Director Decision* dated June 20, 2003.

Section 212(a)(2) of the Act states in pertinent part, that:

(A)(i) [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of-

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), is inadmissible.

....

(C) Controlled substance traffickers.-

any alien who the consular officer or the Attorney General knows or has reasons to believe-

(i) is or has been an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or is or has been a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so.....is inadmissible.

No waiver is available to the applicant under this section of the Act.

Section 212(h) of the Act provides, in pertinent part, that:

(h) The Attorney General [now the Secretary of Homeland Security, "Secretary"] may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D) and (E) of subsection (a)(2) and subparagraph (A)(i)(II) of such subsection insofar as it relate to a single offense of simple possession of 30 grams or less of marijuana if -

....

(1) (B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General [Secretary] that the alien's denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien . . . .

To recapitulate the record reflects that on February 24, 1995 the applicant was convicted by the Circuit Court of Fairfax County, for the Commonwealth of Virginia of the crime of fraudulent use of a credit card and was convicted to two years imprisonment suspended for two years. The applicant is inadmissible to the United States due to his conviction of a crime involving moral turpitude (fraud use of a credit card).

The record further reflects that on January 22, 1995 the applicant was arrested for Possession with Intent to Distribute Cocaine. The applicant admitted on that date and on January 16, 1996 in a sworn statement, taken by an immigration inspector that his intention was to sell the cocaine in order to make money. The officer in charge found the applicant excludable under section 212(a)(2)(C)(i) of the Act. Furthermore, the applicant was removed from the United States on March 18, 1997 based on a final removal order issued by an Immigration Judge and therefore he is inadmissible to the United States pursuant to section 212(a)(9)(A)(ii) of the Act.

On appeal the applicant's mother submits an affidavit stating that she is suffering from high blood pressure, and a thyroid disease. Additionally, she states that due to the applicant's removal to India she and her husband are suffering financially because her husband has to travel back and forth from India and they have to send money to support the applicant in India. Furthermore, the applicant's mother states that she is "...making this last desperate plea for relief under an "Act of Grace," which is allowable under the law." There is no reference to an "Act of Grace" in the law or the regulations and since she did not cite her source this office is unable to comment on her assertion.

No waiver of the ground of inadmissibility under section 212(a)(C)(i) of the Act is available to an alien found inadmissible under this section of the Act. Having found the applicant statutorily ineligible for relief under any section of the Act, no purpose would be served in discussing the applicant's other grounds of inadmissibility. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.